

REMARKS

Claims 33-38 are currently pending in this application. Claims 3-5, 7, 8 and 25 have been canceled. Applicants have carefully reviewed the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claim Rejections Under 35 U.S.C. §102

Claims 4, 5, 7, 8 and 25 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,155,278 (King).

Claims 4, 5, 7, 8 and 25 have been canceled.

Claim Rejections Under 35 U.S.C. §103

Claims 4, 5, 7, 8 and 25 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 4,712,555 (Thornander) in view of Warner et al., "Beat-by-Beat Modulation . . ." (Warner-Loeb) and further in view of King. Claim 3 was rejected under 35 U.S.C. §103 as being unpatentable over Thornander in view of Warner-Loeb and King and further in view of Applicant's admitted prior art (Admission).

Claims 3-5, 7, 8 and 25 have been canceled.

New Claims 33-38

New independent claim 33 recites determining a respiratory cycle length; determining an atrial overdrive pacing rate based on the respiratory cycle length, wherein the atrial overdrive pacing rate is above an intrinsic atrial rate; delivering a plurality of pacing pulses to an atrium at the atrial overdrive pacing rate; determining a plurality of atrioventricular conduction interval times based on the plurality of pacing pulses; determining a subsequent respiratory cycle length based on the plurality of atrioventricular conduction interval times; adjusting the atrial overdrive pacing rate based on the subsequent respiratory cycle length. New independent claim 38 is an

apparatus claim corresponding to claim 33. Dependent claims 34-37 recite additional features of claim 33.

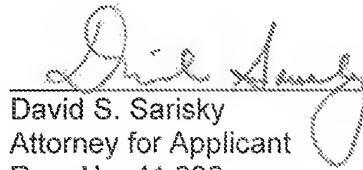
None of the art of record describes determining an atrial overdrive pacing rate based on a respiratory cycle length, then determining a subsequent respiratory cycle length based on a plurality of atrioventricular conduction interval times resulting from pacing at the atrial overdrive pacing rate and then adjusting the atrial overdrive pacing rate based on the subsequent respiratory cycle length.

CONCLUSION

Applicants have made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicants' claims 33-38 is believed to be in order.

Respectfully submitted,

8 JUL 2008
Date



David S. Sarisky
Attorney for Applicant
Reg. No. 41,288
818-493-3369

CUSTOMER NUMBER: 36802